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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

JULIAN BELTRAN,

Defendant and Appellant.

G052643

(Super. Ct. No. 15CF1126)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Gassia Apkarian, Judge. Affirmed.

Caroline R. Hahn, under appointment by the Court of Appeal, for  
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

\* \* \*

Julian Beltran pleaded guilty to felony grand theft (Pen. Code, § 487, subd. (a); all statutory references are to the Penal Code), misdemeanor possession of burglary tools (§ 466), and misdemeanor resisting arrest (§ 148, subd. (a)(1)). He admitted having suffered two prior convictions within the meaning of the Three Strikes law (§ 667, subd. (d) & (e)) and three prior convictions within the meaning of section 667.5, subdivision (b). The trial court struck all prior conviction findings (§ 1385, subd. (a)) and imposed the indicated low term sentence of 16 months in prison. Beltran appealed, and his appointed counsel filed a brief under the procedures outlined in *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Counsel summarized the facts and procedural history of the case, but raised no specific issues, and asked this court to review the record to determine whether there were any arguable matters. Counsel submitted a declaration stating she thoroughly reviewed the record and declared she would make a copy of the brief and record available to Beltran. Counsel did not argue against her client or offer an opinion on the merits of the appeal, would ask to be relieved as counsel if Beltran requested it. We notified Beltran counsel filed a *Wende* brief and gave him 30 days to file a supplemental brief, but he has not responded. We have reviewed the record, found no arguable issues, and therefore affirm the judgment.

#### FACTS AND PROCEDURAL HISTORY

In May 2015, the Orange County District Attorney filed a complaint, as amended in June 2015, alleging Beltran committed the offenses listed above in the City of Tustin on or about May 23, 2015. The complaint alleged he had suffered prior convictions within the meaning of the Three Strikes law for active participation in a criminal street gang (§ 186.22, subd. (a)), and driving with willful or wanton disregard for safety of persons or property while fleeing from pursuing peace officers with a gang enhancement (Veh. Code, § 2800.2; § 186.22, subd. (b)) in July 2005.

On August 20, 2015, Beltran initialed and signed a waiver of rights and guilty plea form. He waived his constitutional and other rights, including his right to

appeal from “decisions and orders of the” trial court, including his right to appeal “any legally authorized sentence the court imposes which is within the terms and limits of this plea agreement.” Beltran acknowledged the court would impose a prison sentence of 16 months, with custody and conduct credits of 180 days. He provided the following factual basis for his plea: “[O]n or about May 23, 2015, in Orange County, I unlawfully took the personal property of the city of Tustin, in a value exceeding \$950; I also unlawfully possessed burglary tools, I also unlawfully resisted and delayed Officer Del Merari in the discharge of his duty.”

At a hearing on August 20, 2015, Beltran stated he had reviewed the guilty plea form with his attorney, he had initialed and signed the form, and he did not have any questions for his attorney or for the court. The court advised Beltran of his constitutional rights and consequences of his plea, Beltran said he understood, and he agreed to give up these rights. He stated no one had made any threats or promises to cause him to plead guilty, and the factual basis provided on the plea form was a true and accurate statement. He acknowledged the maximum sentence he faced was 10 years and six months in custody. Beltran pleaded guilty to the three charged offenses and admitted suffering the prior convictions as alleged. Counsel joined in the plea. The court imposed the indicated low term 16-month sentence for grand theft after striking the prior conviction findings (§ 1385). The court stated the “strikes are very old, the current offense is not a violent or serious felony, the nature of the current offense is less serious than the other felonies, there was no injury or threat of injury to anyone in this case, there is no indication of great degree of danger to society.” The court stayed sentence on the other counts. It imposed a restitution fine (§ 1202.4, subd. (b)) of \$300 and various assessments, and directed Beltran to supply his DNA (§ 296) for the state’s database.

Beltran appealed, stating the appeal was from the sentence or matters occurring after the plea that did not affect its validity (Cal. Rules of Court, rule 8.304(b)). In a request for a certificate of probable cause, and in a letter dated September 28, 2015,

Beltran stated the value of the stolen property did not in fact exceed \$950 because the item stolen was a used ““bait bike”” that had been “used many, many times over . . . in multiple criminal cases” and this reduced its value below \$950. He cited as evidence the restitution fine imposed by the court of \$300, which had been deducted from his inmate account. The record does not reflect the court granted a certificate of probable cause.

#### DISCUSSION

Following *Wende* guidelines, we have reviewed counsel’s brief and the appellate record and discern no arguable issue. This includes counsel’s suggestion we consider whether there was a basis in the record for challenging the validity of Beltran’s plea to felony grand theft. Beltran has not availed himself of the opportunity to file a supplemental brief (*People v. Kelly* (2006) 40 Cal.4th 106, 111 [appellate court must address issues raised personally by appellant in a *Wende* proceeding]), nor has he requested to have appellate counsel relieved. We therefore affirm the judgment. (*Wende, supra*, 25 Cal.3d at p. 443.)

#### DISPOSITION

The judgment is affirmed.

ARONSON, J.

WE CONCUR:

O’LEARY, P. J.

THOMPSON, J.